United Nations A/HRC/37/NGO/24

General Assembly

Distr.: General
7 February 2018

English only

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 7
Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by the Organization for Defending Victims of Violence, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is hereby circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.18-01874(E)
1801874

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The United States Violating International Commitments by Recognizing al-Quds as Israel's Capital

Background

The city of al-Quds (Jerusalem) has been always of high political, economic, geographical and especially religious importance throughout the history of the Middle East region and various religions, including Islam, Judaism and Christianity have paid special attention to it. Therefore, this city has been known as a symbolic and religious city and has been recognized as a "separate body[1]" by the United Nations. The goal has been to provide necessary support for this city, as a sacred place, and its residents as well.[2]

Due to importance and special status of al-Quds, all international actors, governments in particular, must take into account that any measure taken by them, especially those against their international commitments, will have a very profound impact on peace and security of people living in the occupied Palestinian territories and will cause many problems. Therefore, introducing and recognizing al-Quds as the capital of Israel or any action that would lead to such a situation, would be a potential threat to regional and international peace and security. This is why most governments discussed this issue at the United Nations General Assembly meeting on December 21, 2017, and noted that any such step taken by any political institution, including the government of the United States of America, would be invalid. The participants also urged all members of the United Nations to act upon the decisions and resolutions adopted by the United Nations Security Council when the city of al-Quds is at stake.

International rules governing the status of Palestine and al-Quds

Recognition of al-Quds as the capital of Israel by any political institution will, in fact, lead to a new situation that not only lacks legal and political legitimacy, but will be at odds with all international laws and commitments. All states and other non-state actors in the international community must know that recognition of this issue will not only amount to violation of many resolutions adopted, over a long period of time, by the United Nations Security Council and the General Assembly, but will also amount to serious violation of international commitments, frequently highlighted by various international covenants and conventions.

Paragraph 4, Article 2 of the Charter of the United Nations has noted that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." Therefore, Israel and all countries, including the United States of America, are obligated to respect the right of the Palestinian people to self-determination. It follows that any form of territorial occupation through the use of threat or force must be considered illegitimate and any change in the geographical structure of this region will be violation of international commitments of countries. All members of the United Nations must note that in its Resolution 2334, adopted in 2016, the Security Council has emphasized this issue while reminding them of the fact that any change in 1967 borders, apart from changes agreed to by both sides, will lack validity. Any measures against this resolution will be, in fact, violation of international law. This issue has been underlined many times in various resolutions adopted by the Security Council, including resolutions 478 and 476 (1980).

Many years ago, in 1969, the Security Council adopted Resolution 267 in which it condemned as invalid, all measures that would lead to a change in the status of al-Quds and any change in its structure, whether through legislation or through administrative measures.

It must be also noted that recognition of al-Quds as the capital of Israel will, in fact, lead to the annexation of parts of the occupied territories to Israel and eviction of Palestinians, which will be an explicit violation of many international documents including, the Fourth Geneva Convention on the protection of civilian persons in time of war (1949), the Additional Protocol (I) to the Geneva Conventions (1977), The Hague Convention (1907), and the customary international humanitarian law, whose most important rule is negation of an occupation force's right to govern occupied

1. *Corpus separatum*, a Latin term used to describe the Jerusalem area in the 1947 United Nations Partition Plan for Palestine.
2. A/RES/181(II) 29 November 1947

territories. The point about enforcement of these rules is that with regard to the issue of Palestine, all governments are obligated not to recognize any illegal status relative to the occupied territories. In addition, all states have been committed to avoid any help or support that would lead to the maintenance of a status against the rights of the occupied territories. According to international rules, states must not recognize a situation, which has come about through violation of international commitments, including violation of human rights and international humanitarian law. This point was also highlighted in the advisory opinion of the International Court of Justice with regard to legitimacy of the construction of the Wall by Israel in 2004.[3]

Commitments of the international community with regard to Palestine and al-Quds

As a result of the above facts, all member states of the Four Geneva Conventions, including the United States, must guarantee Israel's commitment to international humanitarian law as noted in those conventions, including articles 49 and 53 of the Fourth Geneva Convention, instead of themselves helping violation of those rules. Announcement of al-Quds as the capital of Israel will, in fact, confirm all violations, already committed by Israel, against international commitments of the United States.

All states must know that recognition of such a status will restrict the basic rights of people living in the region, including the right to freedom of movement, access to religious sites, and the right to possession of properties. If this decision is put into effect in the near future, the result will be forced displacement of the Palestinian people under various pretexts. This measure will not only be at odds with the contents of the Universal Declaration of Human Rights, but will specifically violate the Fourth Geneva Convention, which considers as illegal any forced transfer of people from occupied territories for any reason.

All states, including the United States, as a member of the international community which is committed to the Charter of the United Nations and other international documents, must take steps in accordance with predefined laws and regulations and know that any decision to the opposite of this will jeopardize regional and international peace and security. All international actors must be aware that any measure they take must serve peace between the two sides, so that, the rights of people, especially those people who live in the occupied territories, will be protected. Any state not complying with these principles, will violate its international commitments and can be held to account.

Recommendations

We ask all members of the international system to take steps toward bolstering peace and security at regional and international levels and do not recognize any status that is against their international commitments. Governments, as the main political players in the international system, must avoid any measures that would contravene their commitments. Attention to decisions made by the United Nations Security Council and the General Assembly with regard to the issue of Palestine and Israel, in general, and relative to city of al-Quds, in particular, can provide a road map, which must be then followed by all members of the international community.

We, as a human rights nongovernmental organization, call on all regional and international nongovernmental organizations to join hands and pave the way for establishment of peace in the region and support the people of Palestine. At the present time, it is a duty for all nongovernmental institutions to strive toward just and peaceful settlement of disputes through their findings and through good understanding of all aspects of this issue. This collective activity will also increase awareness among governments and within the international system.

We, as a member of the international system, we urge governments not to take any step against decisions made on the issue of Palestine and Israel. Our organization condemns any action, which will amount to support for the occupation and confirm this illegitimate act.

3. Advisory opinions and orders on legal consequences of the construction of a wall in the occupied Palestinian territory, 9 July 2004